

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Ulman Post Office
Ulman, Missouri

Docket No. A2011-39

ORDER AFFIRMING DETERMINATION

(Issued November 22, 2011)

I. INTRODUCTION

On August 3, 2011, the Commission received a petition for review of the closing of the Ulman, Missouri post office.¹ The Petition was filed by Buster and Myna McGowin (Petitioners). After review of the record in this proceeding, the Commission affirms the Final Determination to close the Ulman post office.

¹ Petition for Review Received from Buster and Myna McGowin Regarding Ulman, Missouri post office 65083, August 3, 2011 (Petition). The Petitioners signed the petition on behalf of 122 members of the Ulman community.

II. PROCEDURAL HISTORY

In Order No. 793, the Commission established Docket No. A2011-39 to consider the appeal, designated a Public Representative, and directed the Postal Service to file the Administrative Record and any pleadings responding to the appeal.²

On August 18, 2011, the Postal Service filed the Administrative Record.³ The Petitioners filed a participant statement in support of their petition.⁴ The Postal Service filed comments requesting that the determination to close the Ulman post office be affirmed.⁵ The Public Representative filed reply comments.⁶

III. BACKGROUND

The Ulman post office, an EAS-11 level facility, is located in Ulman, Missouri. Final Determination at 2. The Ulman post office provides window service from 7:30 a.m. to 11:30 a.m. and 12:00 p.m. to 3:45 p.m. Monday through Friday, and 7:30 a.m. to 9:15 a.m. on Saturday. *Id.* Lobby hours are from 7:30 a.m. to 4:00 p.m. Monday through Friday, and 7:30 a.m. to 3:30 p.m. on Saturday. *Id.* In addition to providing retail services, *e.g.*, sale of stamps, stamped paper, and money orders, it provides service to 19 post office box customers and 140 delivery customers. *Id.*

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 5, 2011 (Order No. 793).

³ The Administrative Record is included with United States Postal Service Notice of Filing, August 18, 2011 (Administrative Record). The Administrative Record includes, as item 47, the Final Determination to Close the Ulman, MO Post Office and Continue to Provide Service by Highway Contract Route Service (Final Determination).

⁴ Participant Statement received from Buster and Myna McGowin, August 30, 2011 (McGowin Statement).

⁵ United States Postal Service Comments Regarding Appeal, September 27, 2011; *see also* Revised United States Postal Service Comments Regarding Appeal [Errata], October 13, 2011 (Postal Service Comments). The Postal Service included a copy of the facility lease (Lease) with the October 13, 2011 filing.

⁶ Public Representative Reply Comments, October 12, 2011 (PR Comments).

The Ulman post office averages 9 window transactions accounting for 12 minutes of workload daily. Its revenues have changed from \$15,758 in FY 2008, to \$15,505 in FY 2009, to \$9,538 in FY 2010. *Id.*

On March 3, 2009, the Ulman postmaster retired. A non-career employee was installed as the temporary officer-in-charge (OIG). *Id.*

The Postal Service has determined to close the Ulman post office and provide highway contract route delivery and retail service under the administrative responsibility of the Brumley post office, which is located 5 miles away from the Ulman post office.⁷ *Id.* The Brumley post office is an EAS-13 level post office. Window service hours at the Brumley post office are from 7:30 a.m. to 12:00 p.m. and 12:30 p.m. to 3:45 p.m., Monday through Friday, and 7:30 a.m. through 9:15 a.m. on Saturday. *Id.* There are 45 post office boxes available at the Brumley post office for customers opting for such service. *Id.*

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners contend that the Ulman post office should not be closed in light of the statutory provisions that call for a maximum degree of effective and regular postal services to rural areas, communities and small towns where the post office is not self sustaining. Petition at 1; see *also*, Petitioners Statement at 1. Petitioners assert that the Brumley post office hours are not conducive to the needs of the community, and express concern with potential rural delivery problems, such as leaving cash in a mailbox, purchasing money orders and stamps, and the sending and receiving of certified letters, registered letters, and CODs. Petition at 1. They state there will not be a local postmaster to address postal issues. *Id.* Petitioners dispute Postal Service allegations concerning the condition of the building, specifically the provision of heat. *Id.* Finally, Petitioners dispute the Postal Service's estimate of

⁷ MapQuest estimates the driving distance between the Ulman and Brumley post offices to be approximately 5.2 miles (6 minutes driving time).

economic savings, and mention a newly signed lease that must be honored. *Id.*; see *also*, McGowin Statement at 2.

Postal Service. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services; and (2) the economic savings expected to result from discontinuing the Ulman post office. Postal Service Comments at 1-2. The Postal Service contends that it has given these and other statutory issues serious consideration, and concludes the determination to discontinue the Ulman post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Ulman post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload, declining office revenue;
- a variety of other delivery and retail options (including the convenience of highway contract delivery and retail service from Brumley);
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends regular and effective service will continue to be provided to the Ulman community after the closure. *Id.*

The Postal Service also addresses the concerns raised by Petitioners regarding the effects on postal services, the Ulman community, economic savings and postal employees. *Id.* at 5-9.

Public Representative. The Public Representative concludes that the decision to close the Ulman post office should be remanded. She contends that the Postal Service's failure to acknowledge that Petitioners had filed a Form 61 or initial brief, or to fully consider the claims therein, is not harmless error. PR Comments at 3. For example, she contends that the Postal Service had considered mail security issues for residential customers, but not for churches. *Id.* at 4. The Postal Service had not considered continuing leasehold obligations. *Id.* at 5. Finally, the Postal Service had

not substantiated claims of building deficiencies such as absence of running water, lack of restrooms, or sufficiency of heating. *Id.* at 5-6.⁸

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

⁸ The Postal Service subsequently addressed the Petitioner's comments. See Postal Service Comments.

Notice of the Postal Service's proposal to close the Ulman post office with an invitation for public comment was posted at the Ulman and Brumley post offices from April 18, 2011, through June 19, 2011. Final Determination at 2. The Final Determination to close the post office was posted at the same two post offices from July 11, 2011, through August 12, 2011. *Id.* at 1; see also Postal Service Comments at 4.

Based on a review of the record, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. On March 11, 2011, the Postal Service distributed questionnaires regarding the possible change in service at the post office to post office box customers. Additional questionnaires were available at the counter to walk-in customers. A total of 25 questionnaires were distributed, and 16 were returned. *Id.* On March 23, 2011, representatives from the Postal Service were available at the Ulman post office to answer questions and provide information to customers regarding the possible closure. *Id.* Twenty-two customers attended the meeting. *Id.*

The Postal Service addressed the various concerns raised by customers. For example, it indicated that the community's identity would be preserved because the Postal Service will continue to use the community name and ZIP code. *Id.* at 3. Other issues raised by customers are summarized in the Final Determination. *Id.* at 2-8.

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has satisfied the requirement that it consider the effect of closing on the community. 39 U.S.C. 404(d)(2)(i).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on service. Postal Service Comments at 5. The Postal Service notes that when the final determination is implemented the current 34 post office box customers will receive delivery by highway contract route, although they may elect to continue Post Office Box Service at the Brumley post office located approximately 5 miles away. *Id.* at 3. The existing 140 rural route delivery customers will continue to receive the same service emanating from the Brumley post office. Final Determination at 2.

Petitioners assert that the Brumley post office hours are not conducive to the needs of the community. Petition at 1. Review of the record indicates that the Brumley post office is open for the same number of weekly hours as the Ulman post office, at essentially the same times.

Petitioners contends that the Ulman post office will reduce the level of service to patrons in the community. McGowin Statement at 1. They further contend that the level of service provided to elderly and handicapped will decrease if the Ulman post office is closed. *Id.* at 1. The Postal Service indicates that carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Cluster Box Units. Customers do not have to make a special trip to the post office for service. Final Determination at 3.

Customers were concerned about having to travel to another post office for service. The Postal Service explains that services provided at the post office will be available from the carrier and customers will not have to travel to another post office. The Postal Service adds that most transactions do not require meeting the carrier at the mailbox. *Id.* at 3.

Petitioner and customers also express concern about obtaining accountable mail and large parcels. McGowin Statement at 1. The Postal Service states that if

customers live less than one-half mile from the line of travel, the carrier will attempt delivery of accountable items and large parcels to the customer's residence. If the customer lives over one-half mile away or is not home when delivery is attempted a notice will be left in the mailbox. *Id.* at 5.

Based on a review of the record, the Commission concludes that Ulman post office customers will continue to receive effective and regular service. 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$44,855. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits \$44,279; and annual lease costs \$2,700, minus the cost of replacement service \$2,124.

The Ulman postmaster retired March 3, 2009. Since that time, the post office has been run by a temporary OIG, a non-career postmaster relief (PMR). Final Determination at 2, 8. The non-career postmaster relief (PMR) may be separated from the Postal Service and no other employees will be adversely affected. *Id.* at 7.

The Postal Service's consideration of estimated cost savings needs to be improved. By its own admission, the OIC currently serving as postmaster relief may or may not be terminated. Without any assurance that the OIC will be terminated, the salary and related benefits identified in the Final Determination as economic savings might not be realized. In future cases, the Postal Service should either confirm that salary and benefit savings will be realized, or provide a more complete discussion of why such salary and benefit costs should be considered savings.

Petitioners and the Public Representative comment on the Postal Service's continuing lease obligations. Petitioners Statement at 2, PR Comments at 5.

The Postal Service pays an annual rent of \$3,600 for the facility.⁹ Lease at 1. The Lease includes a provision for leave cancelation upon 90 days notice. *Id.* at 2.

⁹ The \$3,600 amount for the annual lease is an increase over the \$2,700 shown in the Final Determination and represents the new lease amount for the Lease entered into on March 10, 2011.

Thus, if the Postal Service has not already provided sufficient notice of cancellation, the Postal Service's estimate of economic savings should be reduced by \$900.

The Commission finds that the Postal Service has taken economic savings into account.

Effect on employees. The Ulman postmaster retired March 3, 2009. Since that time, the post office has been run by a temporary OIG, a non-career postmaster relief (PMR). Final Determination at 2, 8. The non-career postmaster relief may be separated from the Postal Service and no other employees will be adversely affected. *Id.* at 7.

The Commission finds that the Postal Service has taken the effect on employees into consideration.

VI. CONCLUSION

Based on its review of the record before it, the Commission concludes that the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, its determination to close the Ulman post office and continue to provide highway contract route delivery is affirmed.

It is ordered:

The Postal Service's determination to consolidate the Ulman, Missouri post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary